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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No._____

ASSOCIATED ENTERPRISES, INC. and JOHNSTON FUEL LINERS,

Appellants,

- vs -

TOLTEC WATERSHED IMPROVEMENT DISTRICT,

Appellee.

APPEAL FROM THE SUPREME COURT OF WYOMING

JURISDICTIONAL STATEMENT

Appellants submit herewith their jurisdictional statement as required by Rule 15 of the Rules of the Supreme Court of the United States.

OPINION BELOW

This appeal is from the opinion of the Wyoming Supreme Court in the case of Associated Enterprises, Inc. and Johnston Fuel Liners, Appellants (Defendants below), vs. Toltec Watershed Improvement District, Ap-

pellee (Plaintiff below), reported officially at 490 P.2d 1069 (Wyo. 1971), and attached hereto as Appendix A.

GROUNDS OF JURISDICTION

I. Nature of the Proceeding and Statute Pursuant to which it was Brought.

This was a state district court civil action brought by the Appellee herein, Toltec Watershed Improvement District, for a right of entry upon Appellant's lands pursuant to the provision of Section 1-794 of the Wyoming Statutes 1957. The Toltec Watershed Improvement District can exercise a right of entry upon the Appellant's land only if the statutes (Wyoming Statutes 1957, Sections 41-354.1 - 41-354.26) under which it was created are constitutional.

These statutes limit the voting franchise to property owners and give more weight to the vote of large property owners than to small property owners.

From a Judgment holding that the Watershed Improvement District Statutes were constitutional and authorizing the Appellee to enter upon Appellants' land, the Appellants appealed to the Wyoming Supreme Court, which ruled the statutes constitutional and affirmed the lower Court.

II. Entry of the Opinion Sought to be Reviewed.

The opinion sought to be reviewed was entered November 22, 1971. The Notice of Ap-

peal to the Supreme Court of the United States, attached hereto as Appendix B, was filed on February 15, 1972 in the District Court in and for Albany County, Wyoming.

III. Statute Conferring Jurisdiction on this Appeal.

The jurisdiction of the Supreme Court of the United States to hear this appeal rests upon 28 U.S.C. Section 1257(2).

IV. Cases Sustaining Jurisdiction.

Kramer vs. Union Free School District, 395 U.S. 621, 23 L.Ed.2d 583, 70 S.Ct. 652; Ciprianо vs. City of Houma, 395 U.S. 701, 23 L.Ed.2d 647, 89 S.Ct. 1897; City of Phoenix, Arizona vs. Kolodziejski, 399 U.S. 204, 26 L.Ed.2d 523, 90 S.Ct. 1990, were all cases wherein the State's highest Court upheld the constitutionality of limiting the voter franchise to property owners, and he same were reversed by this Court after holding the matter was properly before this Court on appeal. Gray vs. Sanders, 372 U.S. 368, 9 L.Ed.2d 821, 83 S.Ct. 801; Westbury vs. Sanders, 376 U.S. 368, 11 L.Ed.2d 481, 84 S.Ct. 526; Reynolds vs. Sims, 377 U.S. 533, 12 L.Ed.2d 506, 84 S.Ct. 1362; Avery vs. Midland County, Texas, 390 U.S. 474, 20 L.Ed.2d 45, 88 S.Ct. 1114; Hadley vs. Junior College District of Metropolitan Kansas City, 397 U.S. 50, 25 L.Ed.2d 45, 90 S.Ct. 790, were all cases wherein the State's highest Court upheld the constitutionality of a statute which permitted the votes of some citizens to have more weight than others and the same were reversed by

this Court as being violative of the one man-one vote concept of the Fourteenth Amendment to the United States Constitution.

V. The State Statute Involved.

This case involves the Fourteenth Amendment to the Constitution of the United States.

The Wyoming state statutes involved in this appeal are those creating Watershed Improvement Districts, Wyoming Statutes 1957, Sections 41-354.1 - 41-354.26. The portions of such statutes which are pertinent to this appeal are set out in Appendix C, and the statutes are set out in toto in Appendix D.

QUESTIONS PRESENTED

The facts in this case show that in the creation of the Toltec Watershed Improvement District, only landowners were given the voting franchise and further, that the votes of the landowners were weighted by the fact that approval of a majority of the acreage was required by statute. The Watershed Improvement District statutes, and the Wyoming Supreme Court's decision that they are constitutional present two principal questions:

1) Whether or not the limiting of the voting franchise to property owners in the creation and maintenance of a watershed improvement district violates the Equal Protection clause of the Fourteenth Amendment in that an unreasonable, arbitrary and capricious voting classification is created; and

2) Whether or not the weighting of the votes in a watershed improvement district election by requiring a majority of the acreage is a debasement of the votes of smaller property owners and is violative of the one man-one vote doctrine of the Fourteenth Amendment.

STATEMENT OF THE CASE

I. Background.

The Appellee, Toltec Watershed Improvement District, was organized under the provisions of Wyoming Statutes 1957, Sections 41-354.1 - 41-354.26 by a referendum held on May 12, 1969. At this referendum, the voting franchise was limited to landowners as defined by the statutes. As is required by statute, a majority of the landowners, as well as a majority of the acreage, voted in favor of the Watershed Improvement District.

On June 22, 1970 the Toltec Watershed Improvement District instituted a suit against one of the Appellants herein, Associated Enterprises, Inc., seeking a right of entry upon the Appellant's land for the purpose of carrying out foundation studies for a dam site, including the excavation of test pits, the drilling of test holes and reasonable ingress and egress over the lands in order to determine the feasibility of a reservoir on the North Laramie River in the northern portion of Albany County, Wyoming; said reservoir to cover a portion of the Appellant's land.

Appellant, Johnston Fuel Liners, who had leased from Associated Enterprises the land which was to underlie the proposed reservoir, made a Motion to Intervene in the suit, and such Motion was granted.

The Trial Court rejected Appellants' argument that the statutes were unconstitutional, and found that the Wyoming Statutes under which the Toltec Watershed Improvement District was organized were constitutional and valid, and granted to Toltec the right of entry upon the Appellants' land. The Appellants appealed the Judgment of the District Court to the Wyoming Supreme Court.

II. How the Federal Question was Raised.

The Appellant, Associated Enterprises, Inc., in its Answer to Toltec's Complaint, set forth the defense that the Watershed Improvement District was not a validly organized watershed improvement district, as it was created and organized under a statute of Wyoming which violated the Wyoming Constitution and the United States Constitution and that such statute violated the Equal Protection clause of the Fourteenth Amendment. In its decision, the Supreme Court of the State of Wyoming based its entire decision on the constitutionality of such statutes. The Court said at 490 P.2d 1070:

> The only question presented for our consideration is whether the Wyoming law for the creation of watershed improve-

ment districts (Sections 41-354.1 through 41-354.26, W.S. 1957, 1971 Cum.Supp.) is constitutional.

In its brief and oral argument before both lower Courts, the Appellants urged that the statutes which provided for the creation of Watershed Improvement Districts were unconstitutional since they violated the one man-on vote concept and created an unreasonable voting classification by denying the franchise to non-landowners.

III. How the Lower Court Handled the Constitutional Question.

The Wyoming Supreme Court in holding that the statutes in question were constitutional, relied upon the governmental vs. proprietary test. The Wyoming Court held that the functions of a watershed improvement district were proprietary and hence the one man-one vote concept of the Fourteenth Amendment was not applicable. In so holding, the Court turned a deaf ear to the dictates of the cases of Hadley vs. Junior College District of Metropolitan Kansas City, supra, and Avery vs. Midland County, Texas, supra.

The Court in citing the 1902 case of Mound City Land & Stock Co. vs. Miller, 170 Mo. 240, 70 S.W. 721, held that the affairs of a watershed improvement district were similar to those of a private corporation and hence the weighting of the votes by acreage was constitutionally permissable. By so doing the Court

ignored the fact that a watershed improvement district is a governmental body created by the electoral process. Under the Hadley vs. Junior College District of Metropolitan Kansas City case, supra, these two factors cannot be so lightly disregarded.

Even though the Appellants in both their oral and written arguments extensively discussed the constitutional issue of limiting the voting franchise to landowners, the opinion of the Wyoming Supreme Court fails to consider this issue. Thus impliedly the holdings in the Kramer vs. Union Free School District, supra, and Cipriano vs. City of Houma, supra, were determined to be inapplicable.

The Wyoming Supreme Court also held that the Appellants failed in their burden of proof contrary to this Court's rulings in Kramer vs. Union Free School District, supra, which stated that when the voting franchise is limited to a certain class the presumption of constitutionality of the statute is not applicable and the Appellee has the burden of proof.

FEDERAL QUESTIONS ARE SUBSTANTIAL

I. The Questions are Established as Being Federal.

The questions presented by this appeal have been considered by this Court on several previous occasions, and this Court has uniformly condemned statutes which limit the voting franchise to property owners, and

which dilute the votes of smaller property owners.

The Wyoming Statute grants the voting franchise to only property owners. Irregardless of the number of acres he may have under his management and irrespective of the tremendous effect an improvement district may have upon his mode of living, a lessee is summarily denied his Constitutional right to vote.

In addition, the Wyoming Supreme Court gave its approval to a statute which inherently gives more weight to the votes of larger property owners than to the votes of the small property owners. Such dilution of a man's vote has been held a violation of the Equal Protection clause of the Fourteenth Amendment. Hadley vs. Junior College District of Metropolitan Kansas City, supra.

The Wyoming Supreme Court has held here that non-property owners are subtantially less interested in the creation and maintenance of a watershed improvement district than proprty owners. On this point, the language to the United States Supreme Court used in the case of City of Phoenix vs. Kolodziejski, supra, at 994, is especially pertinent:

> The difference between the interest of property owners and the interest of non-property owners are not sufficiently substantial to justify exclusion of the latter from the franchise.

This Court has consistently ruled that the theories upon which the Wyoming Supreme

Court based its decisions are not valid, and that statutes which arbitrarily limit the voting franchise and dilute a man's vote on the basis of his wealth violate the Fourteenth Amendment.

II. The Questions Are Substantial.

The limiting of the voting franchise to certain people is closely scrutinized by the Courts, and the general presumption of the constitutionality afforded most statutes is not applicable when the statute denies the right to vote to a certain group of people. Kramer vs. Union Free School District, supra.

Once the election process has been chosen the voting franchise may not be limited in any manner which is inconsistent with the Equal Protection clause of the Fourteenth Amendment. Kramer vs. Union Free School District, supra.

When the voting franchise is limited to a certain class, the Court will look to see whether all those excluded are in fact substantially less interested or affected than those the statute includes. The limiting of the voting franchise to property owners is a denial of equal protection. Kramer vs. Union Free School District, supra; Cipriano vs. City of Houma, supra; City of Phoenix vs. Kolodziejski, supra.

No right is more precious in a free country than that of having a voice in the election process and the vote of one man is to be as

much as that of another. Westbury vs. Sanders, supra.

Considerations of area provide insufficient justification for deviations from the one man-one vote rule. Reynolds vs. Sims, supra.

The constitutional right to vote does not depend upon the purpose of the election. Hadley vs. Junior College District of Metropolitan Kansas City, supra.

The right to vote in a governmental body election such as a watershed improvement district and the right to have the vote of one man equal to that of another are substantial federal questions.

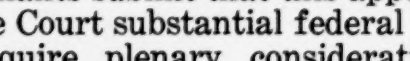
III. The Questions Are Timely.

This case came before the Wyoming Supreme Court in October, 1971 and at this time the Court had access to all of the decisions of this Court concerning the voter classifications and the one man-one vote concepts of the Fourteenth Amendment.

CONCLUSION

Appellants submit that this appeal brings before the Court substantial federal questions which require plenary consideration, with briefs on the merits and oral arguments, for their resolution.

Respectfully submitted,



ELLSWORTH E. LONABAUGH
Member of the Bar of the
Supreme Court of the
United States
Attorney for all Appellants

CERTIFICATE OF SERVICE

I hereby certify that on this 17 day of ebruary, 1972, three copies of Appellants' risdictional Statement were served by mail- g, first class postage prepaid, under Rule (1), to Mr. Fred Phifer, Attorney at Law, heatland, Wyoming 82201. I further certify at all parties required to be served have been rved.

Ellsworth E. Lonabaugh

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APPENDIX A

In the Supreme Court, State of Wyoming
OCTOBER TERM, A.D. 1971
NOV. 22, 1971

ASSOCIATED ENTERPRISES, INC., and JOHNSTON FUEL LINERS,	)	
Appellants (Defendants below),	)	
v.	)	No. 3958
TOLTEC WATERSHED IMPROVEMENT DISTRICT,	)	
Appellee (Plaintiff below).	)	

Appeal from the District Court of Albany County, the Honorable Vernon G. Bentley, Judge.

Henry A. Burgess, of Burgess, Kennedy & Davis, Sheridan, for appellants.

Fred W. Phifer, Wheatland, for appellee.

Before McINTYRE, C.J., and PARKER, McEWAN, and GRAY, JJ.

Chief Justice McINTYRE delivered the opinion of the court.

Appellants are appealing from a judgment of the district court which authorizes Toltec Watershed Improvement District to enter upon lands of defendant-appellants for the purpose of carrying out foundation studies for a dam site.

The only question presented for our consideration is whether the Wyoming law for the creation of watershed improvement districts (§§ 41-354.1 through 41-354.26, W.S.1957, 1971 Cum.Supp.) is constitutional. Appellants are contending this law is unconstitutional because it offends the "one man, one vote" concept of equal protection under the Wyoming and United States constitutions.

Governmental v. Proprietary

We think it will help to understand the problem here involved if we keep the distinction between governmental and proprietary functions of legal subdivisions. In Wyoming we have always recognized such a distinction in dealing with the matter of tort liability of municipal corporations.

Cases which recognize this distinction are so numerous we will not pretend to review them. Instead, we adopt the general statement of rule as set forth in 63 C.J.S. Municipal Corporations § 746, p. 30, in these words:

> "* * * the great weight of authority holds * * * that a municipal corporation has a dual character, the one public and the other private, and exercises correspond-

> ingly twofold functions and duties, one class consisting of those acts performed by it in the exercise of delegated sovereign powers for the benefit of the people generally, as an arm of the state, enforcing general laws made in pursuance of the general policy of the state, and the other consisting of acts done in the exercise of the power of the municipal corporation for its own benefit, or for the benefit of its citizens alone, or the citizens of the municipal corporation and its immediate locality."

On pages 30 and 32 of the text, it is explained that functions falling in the first class are political and governmental; and that the corporation stands on the same footing with a private corporation in the exercise of functions comprising the second class—that is—in the exercise of purely proprietary functions, or the doing of those things which relate to special or private corporate purposes.

Although the act under consideration does not state that a watershed improvement district is a body corporate and politic, it does set forth that watershed improvement districts are formed as subdistricts of soil and water conservation districts.[1] And, the law pertaining to soil and water conservation districts states that a "conservation district" means a governmental subdivision of the state and a body corporate and politic.[2]

---

[1]Section 41-354.3, W.S.1957, 1971 Cum.Supp.
[2]Section 11-235(a), W.S.1957, 1971 Cum.Supp.

Without reviewing the watershed improvement districts law section by section, we can state categorically that the functions of such districts are proprietary and in the nature of special or private corporation purposes. The districts do not exercise delegated sovereign powers for the benefit of people generally.

We need to make it clear that we are not saying a watershed improvement district is not a governmental entity. We merely say its functions are primarily proprietary and not governmental.

Appellants' Burden

This brings us to a restatement of the rule long adhered to by this court concerning the burden of proof when it is claimed that a law is unconstitutional. A law will not be construed to be unconstitutional unless its unconstitutionality is clear and beyond reasonable doubt; and the party who assails the validity of a statute has the burden of proving his contention.[3]

We repeat and apply the foregoing rule because appellants have cited only cases which involve elections to state office, county office, city office, or offices having to do with education. We need not dispute that the one man, one vote concept of equal protection has been

[3]Albert v. State, Wyo., 466 P.2d 826, 827, reh.den. 468 P.2d 968; Weiss v. State ex rel. Cardine, Wyo., 455 P.2d 904, 907, cert. den. 90 S.Ct. 1815, 398 U.S.927, 26 L.Ed.2d 89; City of Rawlins v. Frontier Refining Company, Wyo., 396 P.2d 740, 744, Kuntz v. Kinne, Wyo., 395 P.2d 286, 288-289; Brinegar v. Clark, Wyo., 371 P.2d 62, 64.

applied to such elections. These elections all have to do with the election of persons to offices where political and governmental functions are extensively exercised.[4]

Typical of the authority relied on by appellants is the case of Avery v. Midland County, Texas, 88 S.Ct. 1114, 1121, 390 U.S. 474, 20 L.Ed2d 45, where the court made it clear the body involved was a unit of local government "with general governmental powers" over the county's entire area. Also, Gray v. Sanders, 83 S.Ct. 801, 803, 372 U.S. 368, 9 L.Ed2d 821, which involved a state-wide election. See also Abate v. Mundt, 9 S.Ct. 1904, 1905, ___ U.S. ___, 29 L.Ed2d 398, which had to do with a county board of supervisors consisting of the supervisors of the county's five towns.

Appellants cite no precedent for applying the one man, one vote rule in connection with the establishment and regulation of such entities as watershed improvement districts, soil conservation districts, and irrigation districts, where functions are special and akin to private corporation purposes. We therefore say appellants have failed in their burden of

[4]No citation of authority is necessary for the proposition that states and municipal corporations perform political and governmental functions. Also, education is a matter of purely public concern; and in the establishment and regulation of schools, municipalities act in their governmental and not their private capacity. Sanders v. City of Long Beach, 54 Cal.App.2d 651, 129 P.2d 511; Nabell v. City of Atlanta, 33 Ga.App. 545, 126 S.E. 905; Jones v. City of Armory, 184 Miss. 161, 185 So. 237; Cobb v. Malden, C.A.Mass., 202 F.2d 701; and Fulgoni v. Johnston, 302 Mass. 421, 19 N.E.2d, 542.

showing that the watershed improvement districts law is unconstitutional.

Moreover, it makes sense not to attempt to apply the one man, one vote concept in the establishment and regulation of districts such as a watershed improvement district. The owners of land within the boundaries of a proposed watershed district are the persons primarily concerned. It is, however, the board of supervisors of the soil conservation district which determines whether a watershed district is needed. See § 41.354.8, W.S.1957, 1971 Cum. Supp.

In order "to assist the board of supervisors in this determination," a referendum is required; and only the owners of land within the proposed district vote in the referendum. See § 41.354.9B. The board of supervisors cannot determine that a watershed district is feasible unless a majority of the land owners vote for it **and** unless those voting for the district represent a majority of the acreage contained in the proposed district. See § 41-354.10.

Thus, it can be seen, in matters pertaining to the referendum and affairs of a watershed improvement district, there is a similarity to the manner in which the affairs of a private corporation are administered.

In Mound City Land & Stock Co. v. Miller, 170 M. 240, 70 S.W. 721, 727, it was said:

> "The fact that each owner is entitled to one vote for every acre of land owned by

> him creates no more infirmity in the law than the right of each stockholder of any corporation to cast as many votes as he owns shares of stock renders such laws invalid. In both instances the majority in interest, instead of the majority in number, controls; and who shall say such laws are not just?"

For other statements to the same effect, see State ex rel. Harris v. Hanson, 80 Neb. 724, 115 N.W. 294, 298, same result reached on rehearing 80 Neb. 738, 117 N.W. 412, 415-416; 25 Am Jur 2d Elections § 79, p. 771; and Annotation 82 L.Ed 259.

We are reminded that § 15.1-338, W.S.1957, C.1965, provides for protests and petitions pertaining to local improvement districts. If protests are filed by the legal owners of record of more than half of the area, the improvement shall be abandoned. On the other hand, if a petition for the improvement is signed by owners of 50% of the property, then the governing body shall proceed with the improvement.

The principle recognized in § 15.1-338 is not at all unusual. It is not essentially different from the principle on which the watershed improvement districts law is based.

Overreactions

The writer of this opinion believes there is sometimes a tendency for judges and courts to overreact to decisions of the United States Supreme Court. If we followed the course ad-

vocated by counsel for appellants in the instant case, we would be extending holdings of the United States Supreme Court beyond the limits involved in the decisions of that court.

For example, appellants rely heavily upon the case of Hadley v. Junior College Dist. of Metropolitan Kansas City, Missouri, 90 S.Ct. 791, 397 U.S. 50, 25 L.Ed2d 45, which did extend the one man, one vote rule to local school district elections. That, however, is not to say we should extend the rule even further by applying it to watershed improvement districts.

The limit of the court's holding in the **Hadley** opinion is pointed up by a dissenting opinion of Justice Harlan. At 90 S.Ct. 798, he expresses concern that the court has gone too far in extending the rule and expresses a fear that the rule may even be extended far enough down the scale of governmental bodies to include irrigation districts and air pollution control agencies.

Also, Chief Justice Burger concurred with Justice Harlan and stated, at 90 S.Ct. 802, that the need for more flexibility becomes greater as we proceed down the spectrum from the state legislature to the single-purpose local entity. He lamented the fact that the court had not indicated which nonpopulation interests may or may not be considered by a legislature in devising an apportionment scheme for a local, specialized unit of government.

It is apparent then, from the majority opinion and from the dissents in the **Hadley**

decision, that the one man, one vote rule has not been extended to a local, specialized unit of government such as a watershed improvement district. We reject the idea that we should so extend the rule. Accordingly, we fail to find the watershed improvement districts law unconstitutional and we will not disturb the judgment of the district court.

Affirmed.

APPENDIX B

IN THE DISTRICT COURT IN AND FOR ALBANY COUNTY, WYOMING

ASSOCIATED ENTERPRISES, INC., and JOHNSTON FUEL LINERS,

Appellants,
(Defendants below),

- vs -

TOLTEC WATERSHED IMPROVEMENT DISTRICT,

Appellee,
(Plaintiff below).

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that all of the Appellants above named hereby appeal to the Supreme Court of the United States from the final judgment of the Wyoming Supreme Court's affirming decision entered in Case No. 3958 on November 22, 1971.

This appeal is taken pursuant to United States Code Title 28, Section 1257(2).

/s/ Ellsworth E. Lonabaugh
ELLSWORTH E. LONABAUGH
Attorney for all Appellants
P. O. Box 728
Sheridan, Wyoming 82801

CERTIFICATE OF SERVICE

I, ELLSWORTH E. LONABAUGH, attorney for Appellants in the above entitled and numbered cause, hereby certify that on the 14th day of February, 1972 I served a true and correct copy of a Notice of Appeal to the Supreme Court of the United States by placing the same in the United States mail, postage prepaid at Sheridan, Wyoming, and correctly addressed to:

Mr. Fred Phifer
Attorney at Law
Wheatland, Wyoming 82201

/s/ Ellsworth E. Lonabaugh
ELLSWORTH E. LONABAUGH

APPENDIX C

PERTINENT SECTIONS OF THE WYOMING WATERSHED IMPROVEMENT DISTRICT STATUTES

Wyoming Statutes 1957, Section 41-354.1(c):

> "Landowner" means any person, firm or corporation holding title to, or occupying under a contract of purchase, any land lying within a watershed improvement district organized or proposed to be organized under the provisions of this act.

Wyoming Statutes 1957, 41-354.5:

> PETITION FOR ESTABLISHMENT — FILING GENERALLY; CONTENTS;

> COPY TO BE FURNISHED SOIL AND WATER CONSERVATION COMMITTEE. — When a majority of the LANDOWNERS in the proposed district, desire to form a watershed improvement district, they shall file a petition with the board of supervisors of the soil and water conservation district in which the proposed watershed improvement district be organized to function in the area described in the petition. Such petition shall set forth the boundaries of the proposed district, the number of acres of land involved, the reasons for requesting creation of such district, and the proposed name of such watershed improvement district. A copy of such petition shall be furnished to the state soil and water conservation committee. (Emphasis added)

Wyoming Statutes 1957, 41-354.9(b) states in part:

> All OWNERS of land lying within the boundaries of the proposed district, as determined by the board of supervisors, shall be eligible to vote in the referendum. Only such OWNERS of lands shall be eligible to vote. (Emphasis added)

Wyoming Statutes 1957, Section 41-354.14(d) provides:

> If two-thirds of the votes cast, which VOTES REPRESENT A MAJORITY OF THE ACREAGE CONTAINED IN THE WATERSHED IMPROVEMENT DIS-

TRICT, are in favor of the proposed bond issue, such bonds shall be authorized and may be issued. (Emphasis added)

Wyoming Statutes 1957, 41-354.12(c) states:

Nominating petitions may be filed with the board of supervisors to nominate candidates for directors of the watershed improvement district. No such nominating petition shall be accepted by the board of supervisors unless it shall be signed by ten (10) or more OWNERS of land lying within the boundaries of such watershed improvement district, or by a majority of such OWNERS if there be less than ten (10). Such OWNERS may sign more than one such nominating petition to nominate more than one candidate for director. No person shall be eligible to be a director of a watershed improvement district who is not an OWNER of land within the watershed improvement district in which he seeks election. (Emphasis added)

Wyoming Statutes 1957, Section 41-354.10 provides in part:

. . . provided, however, that the board of supervisors shall not have authority to determine that the operation of the watershed improvement district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum, which affirmative votes REPRESENT A MAJORITY OF THE ACREAGE CONTAINED IN THE PRO-

POSED WATERSHED IMPROVEMENT DISTRICT, FAVOR CREATION OF THE WATERSHED IMPROVEMENT DISTRICT. (Emphasis added)

APPENDIX D

WYOMING WATERSHED IMPROVEMENT DISTRICTS STATUTES

Wyoming Statutes 1957, Sections 41-354.1 - 41-354.26.

CHAPTER 6.1.

WATERSHED IMPROVEMENT DISTRICTS

§ **41-354.1. Definitions.** — A "Director" means a director of a watershed improvement district, and "board of directors" means the governing body of a watershed improvement district.

B. "Supervisor" means a supervisor of the soil and water conservation district in which a watershed improvement district is situated; and "board of supervisors" means the governing body of the soil and water conservation district in which a watershed improvement district is situated.

C. "Landowner" means any person, firm or corporation holding title to, or occupying under a contract of purchase, any land lying within a watershed improvement district organized or proposed under the provisions of this act. [§§ 41-354.1 to 41-354.26].

D. "Due notice" means notice published at least twice, with an interval of at least six (6)

days between the two publication dates, in a newspaper of general circulation within the boundaries of the proposed or organized district, and by posting at five (5) conspicuous places within the organized or proposed district, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal offairs generally. The notice of any hearing, election or referendum required to be held under this act shall fix the time, place and purpose thereof, which time shall be not less than ten (10) or more than fifteen (15) days after the first publication or first posting of such notice. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates. (Laws 1961, ch. 215, § 1.)

§ **41-354.2. Purposes of act.** — The purposes of this act [§§ 41-354.1 to 41-354.26] are to provide for the prevention and control of erosion, floodwater and sediment damages, and the storage, conservation, development, utilization, and disposal of water, and thereby to preserve and protect land and water resources, and protect and promote the health, safety, and general welfare of the people of this state. (Laws 1961, ch. 215, § 2.)

§ **41-354.3. Formation.** — Watershed improvement districts may be formed as subdistricts of soil and water conservation districts

as herein provided for the development and execution of plans and projects relating to any of the purposes set forth in section 2 [§ 41354.2]. (Laws 1961, ch. 215, § 3.)

§ 41-354.4. Area. — The land area embraced in a watershed improvement district must lie within the same or adjoining watershed or subwatershed areas. A watershed improvement district may embrace land lying in one or more soil and water conservation districts. Land lying within the boundaries of one watershed improvement district shall not be included in another watershed improvement district. (Laws 1961, ch. 215, § 4.)

§ 41-354.5. Petition for establishment — Filing generally; contents; copy to be furnished soil and water conservation committee. — When a majority of the landowners in the proposed district, desire to form a watershed improvement district, they shall file a petition with the board of supervisors of the soil and water conservation district in which the proposed watershed improvement district is situated askng that a watershed improvement district be organized to function in the area described in the petition. Such petition shall set forth the boundaries of the proposed district, the number of acres of land involved, the reasons for requesting creation of such district, and the proposed name of such watershed improvement district. A copy of such petition shall be furnished to the state soil and water conservation committee. (Laws 1961, ch. 215, § 5.)

§ **41-354.6. Same—Establishment in more than one soil and water conservation district.** —If a proposed watershed improvement district is situated in more than one soil and water conservation district, copies of such petition shall be presented to the board of supervisors of all the soil and water conservation districts in which any part of the proposed watershed improvement district is situated, and the supervisors of all such soil and water conservation districts shall act jointly as a board of supervisors with respect to all matters concerning such watershed improvement district, including its organization. Such watershed improvement district shall be organized in like manner and shall have the same powers and duties as a watershed improvement district situated entirely in one soil and water conservation district. (Laws 1961, ch. 215, § 6.)

§ **41-354.7. Same—Hearing; notice.** — A. Within thirty days after such petition has been filed with or presented to the board of supervisors, it shall cause due notice to be given of a public hearing upon the practicability and feasibility of creating the proposed watershed improvement district. All owners of land within the proposed watershed improvement district and all other interested parties shall have the right to attend such hearing and to be heard. The state soil and water conservation committee may furnish advice and assistance to the board of supervisors in connection with such hearing. If it appears upon the hearing

that any land included in the petition will not be benefited by its inclusion within the proposed watershed improvement district, the board of supervisors shall exclude such land from the proposed watershed improvement district.

B. If it appears upon the hearing that it may be desirable to include within the proposed watershed improvement district territory outside of the area described in such petition, the hearing shall be adjourned and due notice of a further hearing shall be given throughout the entire area considered for inclusion in such district, and a further hearing shall be held. After final hearing, if the board of supervisors determines, upon the facts presented at the hearing and upon other available information, that there is need, in the interest of the public health, safety and welfare for such a district to function in the territory considered at the hearing, it shall make and record such determination and shall define by metes and bounds or by legal sub-divisions, the boundaries of such district. The board of supervisors, in making such determination, may advise and consult with the state soil and water conservation committee.

C. If the board of supervisors determines after the hearing that there is no need for such a district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. (Laws 1961, ch. 215, §7.)

§ 41-354.8. **Referendum prerequisite to establishment—Generally.** — After the board of supervisors has made and recorded a determination that there is a need, in the interst of the public health, safety and welfare, for the creation of the proposed watershed improvement district, it shall consider the question whether the operation of such a district within the proposed boundaries with the powers conferred upon such district in this act [§§ 41-354.1 to 41-354.26] is administratively practicable and feasible. To assist the board of supervisors in this determination, the board shall, within not more than sixty days after entry of the finding that there is need for the organization of such a district and the determination of the boundaries of such district, hold a referendum within the proposed district upon the proposition of the creation of such district. Due notice of such referendum shall be given by the board of supervisors. Such notice shall state the date of holding the referendum, the hours of opening and closing the polls and shall designate one or more places within the proposed district as polling places. The board of supervisors shall appoint a polling superintendent and other necessary polling officers. (Laws 1961, ch. 215, § 8.)

§ 41-354.9. **Same—Voting; ballots; right of landowners to vote; proxies.**—A. The question to be voted on shall be submitted by ballots upon which the words "For creation of_____Watershed Improvement District" and "Against creation of_____

..Watershed Improvement District" shall appear, with a square before each proposition and a direction to insert an "X" mark in the square before one or the other of the propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of the proposed watershed improvement district as determined by the board of supervisors.

B. All owners of land lying within the boundaries of the proposed district, as determined by the board of supervisors, shall be eligible to vote in the referendum. Only such owners of lands shall be eligible to vote. Any such owner who is unable because of illness or absence from the district to appear at the polls, may appoint in writing on a form prescribed by the state soil and water conservation committee and acknowledged before a notary public or other officer authorized to administer oaths, an agent or proxy to cast a ballot for him. The appointment of agent or proxy shall be presented to the polling officers, and if it is found to be bona fide and in proper form, the holder thereof shall be allowed to vote in behalf of the owner executing the appointment. Prior to casting his ballot, each owner shall present to the polling officers an affidavit stating that he is an owner of land within the district and showing the number of acres he owns and his interest therein, and each agent or proxy shall present a similar affidavit executed by the landowner for whom he is voting. Each landowner shall

be entitled to one vote in the referendum. (Laws 1961, ch. 215, § 9.)

§ 41-354.10. **Same—Counting and recording votes; action upon results; certification of fact when created.**—The votes cast in the referendum shall be counted by the polling officers at the close of the polls and a report of the results, along with the ballots, shall be delivered to the polling superintendent, who shall certify the results to the board of supervisors; and the board shall then consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the board of supervisors shall determine that the operation of the watershed improvement district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the board of supervisors shall determine that the operation of the watershed improvement district is administratively practicable and feasible, it shall declare the watershed improvement district to be created, provided, however, that the board of supervisors shall not have authority to determine that the operation of the watershed improvement district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum, which affirmative votes represent [a] majority of the acreage contained in the proposed watershed improvement district, favor creation of the watershed improvement district. Upon declaring the watershed improvement district to be

created, the board of supervisors shall certify the fact of the creation of such district to the county clerk of the county or counties in which such district is situated, for recordation; and such watershed improvement district shall thereupon constitute a governmental subdivision of this state and a public body corporate and politic. After being recorded, the certificate of the board of supervisors shall be filed with the secretary of state, and a copy thereof shall be filed with the state soil and water conservation committee. (Laws 1961, ch. 215, § 10.)

§ **41-354.11. Inclusion of additional land; detaching land; change of boundaries; change of name.**—A. Petitions for including additional territory within an existing watershed improvement district may be filed with the board of supervisors, and in such cases the proceedings herein provided for with respect to petitions to organize watershed improvement districts shall be observed to the extent deemed practicable in acting upon petitions for such inclusion. In determining whether the operation of a watershed improvement district, including such additional territory, will be administratively practicable and feasible, the board of supervisors shall advise and consult with the directors of the existing watershed improvement district. Where the total number of owners of land in the area proposed for inclusion shall be less than ten (10), the petition may be filed when signed by a majority of the owners of land in such area, represent-

ing a majority of the acreage contained in such area, and in such case no referendum need be held. If the board of supervisors makes a determination in favor of the inclusion of additional territory, it shall certify the fact of such inclusion of additional territory to the county clerk of the county or counties in which the watershed improvement district is situated. After being recorded, the certificate of the board of supervisors shall be filed with the secretary of state and a copy thereof shall be filed with the state soil and water conservation committee.

B. The owner or owners of land which has not been, is not, and cannot be benefited by its inclusion in the watershed improvement district may petition the board of supervisors to have such land withdrawn. The petition shall describe such land and state the reasons why it should be withdrawn. A hearing shall be held within thirty (30) days after the petition is received. Due notice of such hearing shall be given by the board of supervisors. If it is determined by the board of supervisors that such land has not been, is not, and connot be benefited by its inclusion in the watershed improvement district, such land shall be withdrawn from the district. A copy of such determination and withdrawal shall be certified to the county clerk of each county in which any portion of such withdrawn land is situated. After being recorded, the certification shall be filed with the secretary of state and a copy

thereof shall be filed with the state soil and water conservation committee.

C. Petitions for a change in the boundaries of watershed improvement districts may be filed with the board or boards of supervisors of the soil and water conservation district or districts to be affected. The board of supervisors of the soil and water conservation district or joint board of supervisors if more than one soil and water conservation district is affected may require such hearings or referenda as it deems appropriate to enable it to make a determination as to the desirability of the proposed change. If the board of supervisors or joint board of supervisors makes a determination in favor of the change in boundaries, it shall certify the fact of such change to the county clerk of the county or counties in which such watershed improvement district is situated and shall notify the board of directors of the watershed improvement district, setting out in such notice the new boundaries of the district. After being recorded, the certificate of the board of supervisors shall be filed with the secretary of state and a copy thereof shall be filed with the state soil and water conservation committee.

D. Petitions for a change of name of a watershed improvement district may be submitted to the board or board of supervisors of the soil and water conservation district or districts in which the watershed improvement district is situated. If the board of supervisors

approves the change of name, it shall certify the fact of such change of name to the county clerk of the county or counties in which the watershed improvement district is situated and shall notify the board of directors of the watershed improvement district of such change. After being recorded, the certificate shall be filed with the secretary of state and a copy thereof shall be filed with the state soil and water conservation committee. (Laws 1961, ch. 215, § 11.)

§ **41-354.12. Board of directors—Eligibility; nominating petition; election; terms; officers.**—A. Within thirty days after a watershed improvement district is created, the board of supervisors shall cause an election to be held for the election of a board of directors of the watershed improvement district. Due notice of such election shall be given by the board of supervisors. The board of directors shall consist of five members. The first board of directors shall determine by lot from among its membership, two members to serve terms of one year, two members to serve terms of two years, and one member to serve a term of three years. Thereafter, as these initial terms expire, the members of the board of directors shall be elected for terms of three years. Vacancies occurring before the expiration of a term shall be filled for the unexpired term by appointment by the remaining members of the board of directors with the approval of the board of supervisors. The board of directors shall, under the supervision of the board of supervis-

ors, be the governing body of the watershed improvement district.

B. The board of directors shall annually elect from its membership a chairman, secretary, and treasurer. The treasurer shall execute a surety bond for the faithful performance of the duties of his office, which bond shall be approved by the board of directors. Any premium for such bond shall be paid by the watershed improvement district. The district shall be subject to an annual audit of its accounts by the state examiner.

C. Nominating petitions may be filed with the board of supervisors to nominate candidates for directors of the watershed improvement district. No such nominating petition shall be accepted by the board of supervisors unless it shall be signed by ten (10) or more owners of land lying within the boundaries of such watershed improvement district, or by a majority of such owners if there be less than ten (10). Such owners may sign more than one such nominating petition to nominate more than one candidate for director. No person shall be eligible to be a director of a watershed improvement district who is not an owner of land within the watershed improvement district in which he seeks election. (Laws 1961, ch. 215, § 12.)

§ 41-354.13. Same — Powers generally. — Under the supervision of the board of supervisors, the board of directors of a watershed improvement district shall have power to:

A. Levy and collect assessments for special benefits accruing to land, as hereinafter provided.

B. Acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein, maintain, administer, and improve any such property; and sell, lease, or otherwise dispose of any such property in furtherance of the purposes and provisions of this act [§§ 41-354.1 to 41-354.26].

C. Exercise the power of eminent domain and in the manner provided by law for the condemnation of private property for public use.

D. Construct, improve, operate and maintain such structures as may be necessary for the performance of any authorized function of the watershed improvement district.

E. Borrow such money as is necessary to carry out any of the purposes and provisions of this act, and issue, negotiate, sell its bonds or other evidence of indebtedness as provided in section 14 [§ 41-354.14].

F. Cooperate with, and receive from or grant assistance to, towns, cities, counties, and state and federal agencies in carrying out the purposes and provisions of this act. (Laws 1961, ch. 215, § 13.)

§ 41-354.14. Same — Issuance of bonds. — A. Bonds authorized by section 13 [§ 41-354.13] shall not be issued until proposed by order or

resolution of the board of directors specifying the purpose for which the funds are to be used, the rate of interest the bonds are to bear, the amount of the proposed bond issue, terms of the bonds, and the proposed method of payment and redemption of the bonds prior to maturity. A copy of the order or resolution shall be certified to the board of supervisors.

B. The board of directors shall conduct a hearing on such proposal after due notice of such hearing has been given. If it appears that the proposal is within the scope and purpose of this act [§§ 41-354.1 to 41-354.26] and meets all other requirements of the law, the proposal shall be submitted to the landowners of the watershed improvement district by a referendum held under the supervision of the board of supervisors.

C. The provisions of sections 7, 8, 9, and 10 [§§ 41-354.7 to 41-354.10], as to notice and manner of holding a referendum in organizing a watershed improvement district shall be applicable to the referendum held under this section.

D. If two-thirds of the votes cast, which votes represent a majority of the acreage contained in the watershed improvement district, are in favor of the proposed bond issue, such bonds shall be authorized and may be issued.

E. Bonds authorized and issued shall bear interest at a rate not exceeding ten per centum (10%) per annum, payable annually, and shall be due and payable not more than fifty (50)

years from their dates. The form, terms, and provisions of such bonds, provision for their payment and provisions for their retirement and calling not inconsistent with law, shall be determined by the board of supervisors. Such bonds shall be exempt from all state, county, municipal, school, and other taxes imposed by a taxing authority of this state. (Laws 1961, ch. 215, § 14; 1971, ch. 254, § 37.)

The 1971 amendment increased the interest rate in subsection (E) from six percent to ten percent.

§ **41-354.15. Same—Per diem and mileage.**—Members of the board of directors shall receive no salaries, but such members may be entitled to expenses for meetings and travel in the performance of their duties as approved by the board of supervisors. (Laws 1961, ch. 215, § 15.)

§ **41-354.16. Hearing on proposed projects.**—Before any contract shall be let or work begun upon any improvement or project within the watershed improvement district, the cost of which cannot be exclusively financed by funds on hand, grants in aid, or financial assistance or gifts to the district, or before any contract may be entered into by the district with any governmental agency or body which will obligate the district to contribute financially beyond the extent of funds of the district then on hand, it shall be the duty of the board of directors to set a time and place within the district for a public hearing upon such proposal. Due notice of such hearing shall be given by the board of directors.

At the time and place fixed for such hearing any owner of land situated within the watershed improvement district, or any other interested person, may appear and be heard as to his objections to such proposal.

Following the public hearing the board of directors shall, by order or resolution, either affirm the proposal with or without modification or amendments, or disapprove the proposal. If the board of directors affirms the proposal, it shall determine the probable cost of and the proposed method of financing the improvement or project, the benefits to be derived therefrom, and whether the benefits will be conferred upon all land within the watershed improvement district or upon only certain land within in the district, in which latter case the land to be benefited shall be described as to boundaries, ownership, and approximate acreage. (Laws 1961, ch. 215, § 16.)

§ **41-354.17. Appointment of appraisers and appraisal of benefited property.** — If the board of directors determines that the proposed improvement or project should be constructed and that the costs thereof should be paid by special assessment against the land benefited by such improvement or project, it shall appoint three qualified and disinterested residents of the state to act as appraisers. The appraisers shall inspect the plans and specifications of the proposed improvement or project and examine all land likely to be benefited thereby. The appraisers shall make and file

with the board of directors a detailed report showing all tracts of land within the watershed improvement district found to be benefited, together with the acreage thereof, the name of the record owner of each tract, the amount each tract will be benefited, and the amount of assessment to be levied against each tract, which assessment against each tract shall be in proportion to the benefits accruing to such tract. Any necessary expenses connected with making the appraisal by the three appraisers shall be paid by the watershed improvement district. (Laws 1961, ch. 215, § 17.)

§ **41-354.18. Hearing on report of appraisers.**—Upon receiving the report of the appraisers the board of directors shall fix a time and place within the watershed improvement district for hearing any complaint that may be made regarding the benefits appraised to any tract of land or the assessment proposed to be levied against any tract of land. Due notice of such hearing shall be given by the board of directors. At the time and place fixed for such hearing the board of directors shall consider the report of the appraisers and consider and hear any objections filed or voiced thereto. The board of directors shall, by order or resolution, reject the report of the appraisers or accept the report and ratify it with or without modification or amendments. (Laws 1961, ch. 215, § 18.)

§ **41-354.19. Appeal from approval of project or determination of benefits or assess-**

ments.—Any owner of land or person having an interest therein upon which an assessment is proposed to be levied may, within thirty (30) days from such order or resolution of the board of directors accepting the report of the appraisers, file with the clerk of the district court a written notice making demand for trial by the court. The notice shall state definitely from what part of such order or resolution the appeal is taken and shall set forth any other objections of the apellant [appellant]. In case more than one appeal is taken, the court may, upon finding that the appeals may be consolidated without injury to the interests of anyone, consolidate and try the appeals together. Any hearing on appeal provided for herein in the district court shall be de novo, and the district court shall consider not only the question of procedure but also the merits of the point or points appealed from, including but not limited to eminent domain proceedings. Any appeal from a decision of the district court shall follow the usual rules of civil procedure.

If no appeal is taken within the time prescribed in this section from such order or resolution the board of directors accepting the report of the appraisers, or after the finding of the court in case an appeal is taken from such order or resolution of the board of directors, then such assessments shall be final and conclusive and shall constitute perpetual liens upon the land so assessed until they are fully paid. (Laws 1961, ch. 215, § 19.)

§ 41-354.20. **Assessment of benefits against land of state and its subdivisions.**—In case land belonging to the state, or a county, school district, or other public corporation is benefited by any improvement or project constructed under the provisions of this act [§§ 41-354.1 to 41-354.26], all of such benefits shall be assessed against such land and the assessments shall be paid by the proper authorities at the same time as the assessments are called and paid in the cases of private persons. (Laws 1961, ch. 215, § 20.)

§ 41-354.21. **Assessments generally.**—The board of directors shall, on or before the third Monday in July of each year, certify to the board of county commissioners of the county within the watershed improvement district in which assessed lands is located the amount of the annual installments of assessments against such land, together with a fair proportionate amount of the estimated operating and maintenance charges apportioned to such land for the next succeeding year. Thereupon the county commissioners shall certify to and deliver such assessment roll to the county assessor of such county and such county assessor shall extend the amounts so certified on the tax roll as a flat special assessmen against the land benefited. Such assessments shall be subject to the same interest and penalties in case of delinquency as in the case of general taxes, and shall be collected at the same time and in the same manner as in the case of generl taxes; provided, that such assessments shall

become due and payable only at such times and in such amounts as may be determined by the board of directors; and provided further, that any person having an interest in land assessed under this act [§§ 41-354.1 to 41-354.26] may at any time within thirty (30) days after the order of the board of directors has become final and effective as provided in section 19 [§ 41-354.19], pay to the tax collector the amount of the assessments against his land or any tract thereof, and said payment shall relieve said land from the lien of said assessments for the cost of the improvement or project.

The board of directors in making the annual assessments and levies as herein provided, shall take into account the maturing indebtedness for the ensuing year as provided in its contracts, the maturing of bonds and interest on all bonds, and deficiencies and defaults of prior years, and shall make ample provisions for the payment thereof; provided however, that no one yearly call for assessment by the board of directors shall be in an amount to exceed ten per centum (10%) of the actual amount necessary to defray the cost of the construction of such improvement or project. (Laws 1961, ch. 215, § 21.)

§ **41-354.22. Levy, collection and disposition of taxes and special assessments; expenditure of funds.**—It shall be the duty of the officer or body having authority to levy taxes within each county, to levy the taxes and special assessments as provided in this act [§§ 41-

354.1 to 41-354.26] and it shall be the duty of all county officials, charged with the duty of collecting taxes, to collect the taxes and special assessments as provided in this act in the time, form and manner and with like interest and penalties as city or county taxes are collected, and when collected to pay the same to the board of directors of the watershed improvement district ordering their levy and collection and the payments of such collections shall be made through the treasurer of the watershed improvement district and deposited in the depository thereof to the credit of such district. All expenditures of such funds shall be made by the board of directors upon order of the board, under the supervision of the board of supervisors. (Laws 1961, ch. 215, § 22.)

§ **41-354.23. Lien of assessment; collection of delinquent assessments.**—All taxes and assessments levied against any land under this act [§§ 41-354.1 to 41-354.26] together with all interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall, until paid, constitute a perpetual lien upon such land on a parity with the tax lien of general, state, county, city, town or school taxes and no sale of such land to enforce any general, state, county, city, town or school tax or other liens shall extinguish the perpetual lien of such taxes and assessments. If the taxes and assessments levied are not paid as herein provided, then such land shall be sold at the regular tax sale for the payment of said taxes and assessments, interest and

penalties, in the manner provided by the statutes of this state for selling real property for non-payment of general taxes. (Laws 1961, ch. 215, § 23.)

§ **41-354.24. Discontinuance of districts.**— A. At any time after five years from the organization of a watershed improvement district, ten or more landowners within the district, or if less than twenty landowners are involved, a majority of the landowners in such district, may file a petition with the board of supervisors, praying that the existence of the watershed improvement district be discontinued. The petition shall state the reasons for discontinuance, and that all maintenance and operation assurances and other obligations of the district have been met. A copy of such petition shall be furnished to the secretary of state and to the state soil and water conservaion committee.

B. After giving due notice of a hearing on such petition, the board of supervisors may conduct such hearing on the petition as may be necessary to assist it in making a determination.

C. Within sixty (60) days after the petition is filed, a referendum shall be held under the supervision of the board of supervisors substantially as provided for in section 8 [§ 41-354.8]. No informalities in the conduct of the referendum or in any matters relating to the referendum sh.ll invalidate it or its results if due notice of the referendum has been given.

D. If a majority of the votes cast in such referendum favor the discontinuance of the watershed improvement district, and the board of supervisors determines that all maintenance and operation assurances and other obligations of the district have been met, the watershed improvement district shall be discontinued. A copy of such determination and discontinuance shall be certified to the county clerk of the county or counties involved for recordation. After being recorded, the certification shall be filed with the secretary of state and a copy thereof shall be filed with the state soil and water conservation committee. (Laws 1961, ch. 215, § 24.)

§ **41-354.25. Supervision by state soil and water conservation committee upon discontinuance.**—If any soil and water conservation district in which a watershed improvement district is situated is discontinued, the state soil and water conservation committee shall thereafter serve in the same supervising capacity over the watershed improvement district as was theretofore served by the board of supervisors of such soil and water conservation district. (Laws 1961, ch. 215, § 25.)

§ **41-354.26. Existing water rights preserved.**—Nothing in this act [§§ 41-354.1 to 41-354.26] shall be so construed as to in any manner impair existing water rights, appropriations or priorities. (Laws 1961, ch. 215, § 26.)